IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 72-5794

JOSHAWAY DAVIS,

Petitioner,

v.

STATE OF ALASKA,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF THE STATE OF ALASKA

REPLY BRIEF FOR THE PETITIONER

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

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Respondent, State of Alaska, admits that the limitation of Petitioner Davis' cross-examination of witness Green did mislead the trial jury to the extent that the foreclosed cross-examination would have impeached Green's credibility (respondent's brief, pages 3, 13, 14, 41, 56).[1] Respondent claims that such cross-examination would have failed to raise any meaningful doubts of guilt

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[1] The Supreme Court of Alaska found that Green's identification was crucial to the prosecution's case (A. 56a). The entire thrust of petitioner's trial defense was that the identification was erroneous.

in the jurors' minds, apparently alleging harmless error. Respondent also contends that the underlying rationale prohibiting the disclosure of Green's juvenile record is so strong that Davis' trial would have been fundamentally fair even if the jurors had been significantly misled concerning the realibility of Green's testimony. An examination of respondent's positions and arguments demonstrates that they are without merit. Approaching respondent's brief in the order in which he has presented the issues the following can be discerned:

I.

FACTUAL ERROR WITHIN RESPONDENT'S STATEMENT OF THE CASE AND INTRODUCTION TO ARGUMENT

In his Statement of the Case respondent misstates the evidence. On page 7 of his brief he states that the tires on petitioner's automobile were compared with the tire tracks where the safe was found and the conclusion was reached that the same car had made both tracks (Also respondent's brief, page 38). The testimony referred to of witness Gray (Tr. 147-158) shows Gray as a partisan witness who very much wanted to say that the tire tracks at the scene of the discovered safe matched the tires on petitioner's automobile in order to fit his theory of the case. However, after discussion out of the hearing of the jury about Gray's testimony on this issue, his testimony was stricken as he had not been qualified as an expert on tire tracks (Tr. 155). Gray's adversary role was again made evident when he admitted on re-cross-examination that he was not an expert on tires (Tr. 156), and again, non-responsively, volunteered that the tire tracks

"appeared to be the same", (Tr. 157), and, most importantly, stated he had come to that conclusion only because the tire tracks at the scene were made by snow tires and there were snow tires upon petitioner's vehicle. Gray apparently was willing to so conclude even though he could not even identify the tire brands (Tr. 156). No expert testified concerning actual comparisons of the tire imprints. Tire prints were not argued to the trial court or the trial jury by respondent nor were they cited by the Supreme Court of Alaska in ruling on the sufficiency of the evidence (A. 57a).

On page 8 of his brief respondent states that the fibers found in the trunk of petitioner's car "matched" fibers of the safe insulation. Actually, the witness could not say that the fibers came from the safe in question. They could have come from a different kind of safe or not a safe at all (Tr. 206-207).

As respondent discusses on pages 8 and 9 of his brief, there was a problem with a lineup in the case. Respondent's position as stated later in his argument (respondent's brief, pages 38-40) is that this lineup itself was constitutionally valid and therefore a source of independent corroboration of Green's testimony. The Supreme Court of Alaska in essence found that the lineup did violate *United States v. Wade*, 388 US 218 (1967), but that the error was harmless as the trial identification was sufficiently independent.

On pages 10, 11, and 12 of respondent's brief he attempts to show that petitioner's defense that Green feared himself to be a burglary suspect was in fact not supported by the evidence, citing the cross-examination of witness Green. This argument is both self-serving and self-defeating as it supports petitioner's position that he was in fact denied the opportunity to effectively cross-

examine Green. Respondent states in footnote 3 of his brief (page 13) that Green's negative response to counsel's question as to whether or not he had ever been questioned before by law enforcement officers was truthful as the question was qualified with "like that". The attempted distinction is that the inquiry was as to his status as a prospective witness and not as a prospective accused. This assertion underlines again the need for allowing adequate cross-examination to determine the facts to avoid the necessity of such conjecture at this date. Further questioning was curtailed by a sustained objection (A. 34a).

In footnote 4 (page 14) of his brief respondent states that the only value further cross-examination of Green and disclosure of Green's juvenile record would have had to petitioner was for purposes of impeachment. Petitioner has repeatedly pointed out in his opening brief that additional grounds for permitting cross-examination are that the adjudication of burglary and circumstances of probation surrounding it would have shown bias, self-interest, motive and apprehension thereby affecting credibility. *People v. Smallwood,* 306 Mich. 49, 10 N.W.2d 303, 147 ALR 443 (1943).[2] Respondent concedes on page 15 of his brief that witness Green's

[2]While impeachment and attack on credibility can be synonymous, in this context impeachment is limited to an attack on general reputation through evidence of specific wrongful acts under Alaska Civil Rule 43(g)(11)b. At common law the conviction for any felony or a misdemeanor involving dishonesty rendered the convicted person incompetent as a witness. *Wigmore on Evidence* Vol. 2 §520. The additional grounds cited by petitioner form a basis for a specific attack on credibility of specific testimony. This was discussed by counsel during argument before the trial court on the motion to suppress (A. 4a-22a).

testimony formed a substantial part of the prosecution's case and that in fact cross-examination as to Green's juvenile record would have placed the jurors in a better position to evaluate his testimony.

II.

RESPONDENT'S CITATIONS TO AND DISCUSSION OF THE HEARSAY RULE AS APPLIED TO THE CONFRONTATION CLAUSE IS LARGELY IRRELEVANT.

Section II of respondent's brief contains a thorough and informative discussion of the hearsay rule, its exceptions, and their relationship to the confrontation clause of the Sixth Amendment. The case presently before the Court has nothing to do with hearsay and therefore this discussion and the cases cited therein are neither helpful or relevant. However, some of these cases contain language that supports the rationale of petitioner's position.

Dutton v. Evans, 400 US 74 (1970), cited by respondent concerned a hearsay statement allegedly made by a co-conspirator admissible at trial under a Georgia rule. There it was held that the statement's admission did not violate the Sixth Amendment as the witness could have been called by the accused. This Court wrote the following:

> In the trial of this case no less than 20 witnesses appeared and testified for the prosecution. Evans' counsel was given full opportunity to cross-examine every one of them. The most important witness, by far, was the eyewitness who described all the details of the triple murder and who was cross-examined at great length. Of the 19 other witnesses, the testimony of but a single one is at issue here. That one

> witness testified to a brief conversation about Evans he had had with a fellow prisoner in the Atlanta Penitentiary. The witness was vigorously and effectively cross-examined by defense counsel. His testimony, which was of peripheral significance at most, was admitted in evidence under a coconspirator exception to the hearsay rule long established under state statutory law. The Georgia statute can obviously have many applications consistent with the Confrontation Clause, and we conclude that its application in the circumstances of this case did not violate the Constitution. 400 US 88

The Court emphasized the desirability of vigorous and effective cross-examination by defense counsel of the witness actually proffering the statement.

California v. Green, 399 US 149 (1970), also cited by respondent in his hearsay discussion, concerned the permissible use of a preliminary hearing transcript at trial. This Court notes:

> Viewed historically, then, there is good reason to conclude that the Confrontation Clause is not violated by admitting a declarant's out-of-court statements, as long as the declarant is testifying as a witness and subject to full and effective cross-examination. 399 US 158

Again, the necessity of full and effective cross-examination of prosecution witnesses is emphasized. In distinguishing *Barber v. Page*, 390 US 719 (1968), the Court stated:

> In the present case respondent's counsel did not appear to have been significantly limited in any way in the scope or nature of his cross-examination of the witness Porter at the preliminary hearing. 399 US 165

Cited also by respondent under his hearsay heading is last Term's case of *Chambers v. Mississippi*, ___ US ___, 35 L.Ed.2d 297, 309, earlier cited by petitioner as authority for his position. This Court stated there:

> Of course the right to confront and to cross-examine is not absolute and may, in appropriate cases, bow to accommodate other legitimate interests in the criminal trial process. E.g. *Mancusi v. Stubbs*, 408 US 204, 33 L.Ed.2d 293, 92 S.Ct. 2308 (1972). But its denial or significant diminution calls into question the ultimate "integrity of the fact finding process" and requires that the competing interest be closely examined. *Berger v. California*, 393 US 314, 315, at L.Ed.2d 508, 89 S.Ct. 540 (1969).

The two cases cited there by this Court concern respectively the permissible use of testimony from a prior trial in which the issues were identical and full cross-examination was present and the impermissible use of a preliminary hearing transcript where there was not adequate cross-examination.

In *Berger*, this Court said:

> As we pointed out in *Barber v. Page*, one of the important objects of the right of confrontation was to guarantee that the fact finder had an adequate opportunity to assess the credibility of witnesses. 390 US, at 721, 20 L.Ed.2d 158 (sic) 398 US 315.

What is significant is that this Court has permitted in a few limited situations the use of hearsay in lieu of actual testimony. However, these issues touch only slightly upon the question here presented–the limitation of cross-examination when confrontation is actually being accomplished. In these circumstances the Fifth Amend-

ment is the only limiting factor.[3] *Alford v. United States*, 282 US 687 (1931). *Smith v. Illinois*, 390 US 129 (1968).

III.

THE LIMITATION OF CROSS-EXAMINATION WAS NOT HARMLESS ERROR AS THERE IS NOT SUFFICIENT UNTAINTED EVIDENCE TO SUPPORT A CONVICTION AND, NOTWITHSTANDING, THE PROPER TEST IS WHETHER IT CAN BE SAID BEYOND A REASONABLE DOUBT THAT KNOWLEDGE OF GREEN'S RECORD AND PROBATION WOULD NOT HAVE AFFECTED THE TRIAL JURY'S VERDICT.

Under IV of respondent's brief it is asserted that the limitation of cross-examination of witness Green did not significantly mislead the jury. On page 35 of his brief respondent asserts that Green's juvenile record was minimally impeaching and that Green's testimony would not have suffered more by full cross-examination than it would have by disclosure of his juvenile record through another witness. It is argued by petitioner that the record itself and alone should be brought before the trier of fact in all cases of juvenile prosecution witnesses for the jury to evaluate. In petitioner's case, there are even stronger reasons as the existence of a burglary conviction, and the ensuing probation, goes to establish bias, self interest, apprehension and motive on the part of the essential witness Green. Petitioner's entire defense was to discredit witness Green. Not only was the safe found where Green lived but it was next to his truck (A. 28a), a fact not heretofore emphasized.

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[3]The exercise of which may deprive the accused of adequate confrontation. *Bruton v. United States*, 391 US 123 (1968).

Respondent asserts the fact that Green was on probation did not mean he had a meaningful motive that might have colored his testimony. Respondent asserts there is no factual basis to find that Green had any realistic hope of a benefit from his testimony. There is nothing in the record to support this statement and, notwithstanding, the question is what Green believed in his own mind and only a jury can properly determine this. Respondent states that nothing in Green's juvenile record indicates that he was receiving any favors for help, again citing from evidence not in the record and not presented to the jury. Interestingly, in footnote 23 of his brief (page 36) respondent states that he will furnish this Court with Green's entire juvenile file if it so requests. This offer flies in the face of respondent's continued assertion that a juvenile record must remain secret except in the limited area of sentencing. If this Court is entitled to Green's entire juvenile file in order to ascertain the truth, why was not Davis's jury?

Respondent states that the record clearly demonstrates full cross-examination would not have shown Green was in any danger of being accused of a burglary or that he actually would receive any favors for his help (respondent's brief, page 36). Again, the relevant question is what Green believed in his own mind, particularly at the time of the original photographic identification, after that his identification was frozen. Continuing, respondent maintains that the record indicates that the police did not suspect Green of having committed a burglary. Petitioner had already argued that he should have been permitted to cross-examine witness Gray on this particular point with the fact of Green's conviction of burglary (petitioner's brief, page 20). Respondent concludes that none of Green's actions indicated guilt. Guilt is not necessary nor

particularly relevant; what is important is that Green had fear of prosecution and desired to better his position in the eyes of the law.

Commencing on the bottom of page 36 and continuing on page 37 and 38 of respondent's brief it is in essence asserted that any error in limitation of cross-examination was harmless since there was other adequate evidence to convict. Approaching this question with the *Chapman v. California,* 386 US 18 (1967), test it must be determined what evidence existed independent of witness Green's testimony. Without his testimony the only evidence that was against petitioner was that paint chips and insulation fibers that could have originated from a safe were found in the trunk of his rented car (Tr. 180, 206). This cannot be sufficient evidence to prove beyond a reasonable doubt that Davis committed the crimes of burglary and larceny. Respondent, however, believes that this evidence was sufficient even if the jury felt that Green had a strong motive either to fabricate or to hastily made an identification and stick to it (respondent's brief, page 37).

Respondent argumentatively asserts that the paint chips and safe insulation fibers which were found in the trunk of petitioner's rented car "obviously came from the stolen safe" (respondent's brief, page 37). Yet the only evidence presented was that these fibers and chips *could have* come from *a* safe (Tr. 180, 206). Going on, respondent states that there is nothing in the record that indicates that Green's description to the police officers of the man he talked with failed to match Davis' appearance. This is not true. Investigator Weaver testified that as he was bringing Green to Anchorage for the identification Green described the shorter of the two blacks he saw as having a mustache (Tr. 231). However, Green identified Petitioner Davis in court as being the shorter of the two

persons he had seen at the scene (Tr. 211) but then stated that the man he saw where the safe was found did not have a mustache. Green also testified that one man was standing beside the car and one was to the rear (A. 29a, 40a). However, he had given a prior statement that both were behind the car (A. 44a).

In continued support of his theory of harmless error and other independent evidence respondent cites items of evidence that were never even presented to the jury. On page 37, he states that petitioner had paid for the rented car in question from an unusually large roll of bills and two rolls of quarters; he also states that Green said one of the men was wearing a brown or black mackinaw and that the safe had reddish brown fibers caught on it. Respondent admits that this evidence was never considered by the jury and it is therefore difficult to understand how he can cite purported facts not offered at trial in an attempt to support a jury's verdict.

Respondent also now maintains that the tires of petitioner's vehicle matched the set of tracks where the safe was found.[4] As has been discussed previously, this is a misstatement of fact. Respondent maintains that the record is replete with evidence that the photographic and lineup identifications were not suggestively induced. This of course is what the jury was led to believe when they were not adequately informed of the facts which would establish bias, self interest, motive and apprehension in Green's mind. The inadequate nature of the lineup has already been discussed. The lineup was after petitioner was formally charged, *Kirby v. Illinois*, 406 US 682 (1972).

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[4]There were actually two sets of tracks where the safe was found (Tr. 156).

In support of his position respondent asserts that Green had no trouble selecting the photograph of petitioner even though it was ten years old and differed from Petitioner Davis' appearance at the time of his arrest (respondent's brief, page 38). This fact would seem to be a basis to suspect the identification rather than support it.

IV.

BRADY v. MARYLAND REQUIRES THE ADMISSION OF GREEN'S JUVENILE RECORD AND PROBATIONARY STATUS AS IT IS FAVORABLE TO THE ACCUSED.

On page 41 of his brief respondent again concedes that the jury was somewhat misled concerning Green's credibility and that Green's testimony added to the State's case but concludes that this inroad upon the integrity of the fact finding process did not deprive Petitioner Davis of the due process of law citing *Giles v. Maryland*, 385 US 66 (1967). *Giles v. Maryland* raised the issue of the prosecution's duty to disclose all evidence useful to the defense and was remanded for a determination of whether in the original trial of the case the prosecution allowed false evidence to go uncorrected. Indeed, such an issue would be here presented had respondent kept from petitioner the fact that Green had been convicted of burglary and was on probation at the time of trial which act or omission would have violated *Brady v. Maryland*, 373 US 83 (1963). As suppression of this information from petitioner would constitute a violation of the Due Process Clause of the Fourteenth Amendment, so did its suppression at trial violate the Fourteenth Amendment through the Sixth Amendment. If it has any meaning,

Brady not only gives the accused access to exculpatory testimony but an opportunity to offer it on his behalf.

> The right to offer the testimony of witnesses, and to compel their attendance, if necessary, is in plain terms, the right to present a defense, the right to present the defendant's version of the facts . . . to the jury so it may decide where the truth lies. *Washington v. Texas,* 388 US 14, 17 (1967).

Thereafter respondent persists in his assertion that the fact of conviction of burglary does not in and of itself show motive for perjury. This argument again ignores the thrust of petitioner's complaint. Petitioner is stating that Green's identification was unreliable because he was motivated by fear of prosecution and a motive for self-protection and self-betterment. Petitioner does not need to actually demonstrate a deal between the prosecution and the witness or an actual threat of prosecution; the possibility that something of this nature may have been present in Green's mind is sufficient. *Alford v. United States,* 282 US 687 (1931), *Smith v. Illinois,* 390 US 129 (1968).

V.

THE PURPOSES BEHIND ALASKA'S JUVENILE RECORDS SECRECY RULE ARE WEAK WHEN COMPARED TO THE SIXTH AMENDMENT AND THE NECESSITY OF A FAIR TRIAL.

Petitioner has argued that the only limitations upon cross-examination are those found within the Fifth Amendment. Respondent believes that there are "strong purposes" behind Alaska's Juvenile Record Secrecy Act; purposes so strong as to justify infringement upon the Right of Confrontation.

After lengthy discussion of hearsay again, petitioner's demonstration of strong purposes are:

1. Disclosure of Green's record might have shattered his confidence in the State's sincerity in fostering his rehabilitation after he had good reason to believe that his juvenile record would not be exposed.

2. Disclosure of Green's record at the trial would was "certainly newsworthy that the State's star witness who happened to live near the place where the safe was found, had been adjudicated a delinquent for acts of burglary." (respondent's brief, page 55)

The purposes cited are not compelling, they can scarcely be said to form a rational basis for the rule's justification. A reasonable mind can find little danger of the first and in fact more danger if Green believed that the judicial system was not concerned with truth. The second reason only emphasizes the significance of the suppression. What is newsworthy is also highly probative.

Respondent replies to petitioner's suggestion of a closed courtroom if there is actual danger in dissemination, complaining that twelve additional persons would learn of the juvenile's record. This is unavoidable in the judicial process; it cannot operate in a vacuum. To date, many persons in the district attorney's office, the police department, the Alaska Superior Court, the Alaska Supreme Court, and this Court, all are aware of Green's juvenile record and it is extremely doubtful that he is suffering for it. A proper and timely instruction to the jury after a verdict would suffice to all but eliminate any danger.

Respondent warns that if being a witness for the prosecution means at least partially opening a door to a

closet of skeletons a person might well hesitate to stop a crime or report its occurence. This statement seems to be predicated on a theory of presumption of guilt. When one stands accused of a crime he is entitled to explore into the secret closets of his accusers. To permit less is to permit darkness.

CONCLUSION

Respondent concludes that the prohibition against disclosing a witness's juvenile record by either cross or direct examination is a well recognized rule of evidence. It is not a rule of evidence, it is only a statutory prohibition and one that accedes to the Sixth Amendment right of confrontation. As a competing interest it does not survive close examination. *Chambers v. Mississippi*, ___ US ___, 35 L.Ed.2d 297, 309 (1973). For these reasons and those stated in petitioner's brief the Judgment of the Supreme Court of Alaska should be reversed.

Respectfully submitted,

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November 1973

(Slip Opinion)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

DAVIS *v.* ALASKA

CERTIORARI TO THE SUPREME COURT OF ALASKA

No. 72-5794. Argued December 12, 1973—
Decided February 27, 1974

Petitioner was convicted of grand larceny and burglary following a trial in which the trial court on motion of the prosecution issued a protective order prohibiting questioning Green, a key prosecution witness, concerning Green's adjudication as a juvenile delinquent relating to a burglary and his probation status at the time of the events as to which Green was to testify. The trial court's order was based on state provisions protecting the anonymity of juvenile offenders. The Alaska Supreme Court affirmed. *Held:* Petitioner was denied his right of confrontation of witnesses under the Sixth and Fourteenth Amendments. Pp. 7–13.

(a) The defense was entitled to attempt to show that Green was biased because of his vulnerable status as a probationer and his concern that he might be a suspect in the burglary charged against petitioner, and limiting the cross-examination of Green precluded the defense from showing Green's possible bias. Pp. 8–11.

(b) Petitioner's right of confrontation is paramount to the State's policy of protecting juvenile offenders and any temporary embarrassment to Green by disclosure of his juvenile court record and probation status is outweighed by petitioner's right effectively to cross-examine a witness. Pp. 11–13.

499 P. 2d 1025, reversed and remanded.

BURGER, C. J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, STEWART, MARSHALL, BLACKMUN, and POWELL, JJ., joined. STEWART, J., filed a concurring statement. WHITE, J., filed a dissenting opinion, in which REHNQUIST, J., joined.

(Slip Opinion)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Lumber Co., 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

No. 72-5794

Joshaway Davis, Petitioner, v. State of Alaska.	On Writ of Certiorari to the Supreme Court of Alaska.

[February 27, 1974]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari in this case to consider whether the Confrontation Clause requires that a defendant in a criminal case be allowed to impeach the credibility of a prosecution witness by cross-examination directed at possible bias deriving from the witness' probationary status as a juvenile deliquent when such an impeachment would conflict with a State's asserted interest in preserving the confidentiality of juvenile adjudications of delinquency.

(1)

When the Polar Bar in Anchorage closed in the early morning hours of February 16, 1970, well over a thousand dollars in cash and checks was in the bar's Mosler safe. About midday, February 16, it was discovered that the bar had been broken into and the safe, about two feet square and weighing several hundred pounds, had been removed from the premises.

Later that afternoon the Alaska State Troopers received word that a safe had been discovered about 26 miles outside Anchorage near the home of Jess Straight and his family. The safe, which was subsequently determined to be the one stolen from the Polar Bar, had been pried open and the contents removed. Richard

Green, Jess Straight's stepson, told investigating troopers on the scene that at about noon on February 16 he had seen and spoken with two Negro men standing alongside a late-model metallic blue Chevrolet sedan near where the safe was later discovered. The next day Anchorage police investigators brought him to the police station where Green was given six photographs of adult Negro males. After examining the photographs for 30 seconds to a minute Green identified the photograph of petitioner as that of one of the men he had encountered the day before and described to the police. Petitioner was arrested the next day, February 18. On February 19, Green picked petitioner out of a lineup of seven Negro males.

At trial evidence was introduced to the effect that paint chips found in the trunk of petitioner's rented blue Chevrolet could have originated from the surface of the stolen safe. Further, the trunk of the car contained particles which were identified as safe insulation, characteristic of that found in Mosler safes. The insulation found in the trunk matched that of the stolen safe.

Richard Green was a crucial witness for the prosecution. He testified at trial that while on an errand for his mother he confronted two men standing beside a late-model metallic blue Chevrolet, parked on a road near his family's house. The man standing at the rear of the car spoke to Green asking if Green lived nearby and if his father was home. Green offered the men help, but his offer was rejected. On his return from the errand Green again passed the two men and he saw the man with whom he had had the conversation standing at the rear of the car with "something like a crowbar" in his hands. Green identified petitioner at the trial as the man with the "crowbar." The safe was discovered later that afternoon at the point, according to Green, where the Chevrolet had been parked.

Before testimony was taken at the trial of petitioner, the prosecutor moved for a protective order to prevent any reference to Green's juvenile record by the defense in the course of cross-examination. At the time of the trial and at the time of the events Green testified to, Green was on probation by order of a juvenile court after having been adjudicated a delinquent for burglarizing two cabins. Green was 16 years of age at the time of the Polar Bar robbery, but had turned 17 prior to trial.

In opposing the protective order, petitioner's counsel made it clear that he would not introduce Green's juvenile adjudication as a general impeachment of Green's character as a truthful person but rather, to show specifically that at the same time Green was assisting the police in identifying petitioner he was on probation for robbery. From this petitioner would seek to show—or at least argue—that Green acted out of fear or concern of possible jeopardy to his probation. Not only might Green have made a hasty and faulty identification of petitioner to shift suspicion away from himself as one who robbed the Polar Bar, but Green might have been subject to undue pressure from the police and made his identifications under fear of possible probation revocation. Green's record would be revealed only as necessary to probe Green for bias and prejudice and not generally to call Green's good character into question.

The trial court granted the motion for a protective order, relying on Alaska Rule of Children's Procedure 23,[1] and Alaska Stat. § 47.10.080 (g).[2]

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[1] Rule 23 provides:

"No adjudication, order, or disposition of a juvenile case shall be admissible in a court not acting in the exercise of juvenile jurisdiction except for use in a presentencing procedure in a criminal case where

[*Footnote 2 is on p. 4*]